

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

*Plaintiff,*

vs.

**Civil No. 11-55**

PREHISTORIC POTTERY SHERDS FOUND AT  
THE HAMM RESIDENCE INCLUDING THE FOLLOWING:  
STONE AXE,  
PHOTOS AND NEGATIVES OF ARTIFACTS (FOUND IN AN  
ENVELOPE),  
NATIONAL PARK SERVICE "WARNING" ANTIQUITIES ACT SIGN TAKEN FROM NATIONAL  
MONUMENT NEAR FLAGSTAFF, AZ,  
HISTORIC AND PREHISTORIC ARTIFACTS, INCLUDING BEADS, SHELLS, BUTTONS, NAILS, AND  
CARTRIDGES (FOUND IN GLASS ASHTRAY),  
HISTORIC LEAD BULLETS,  
INDENTED BROWNWARE POT SHERD AND HAMMERSTONE (FOUND NEAR DESK LIGHT),  
PHOTOS OF PREHISTORIC ARTIFACT,  
YELLOWISH TAN HISTORIC PIPE BOWL,  
PHOTO PROOF SHEETS OF PREHISTORIC ARTIFACTS, INCLUDING CERAMIC EFFIGIES,  
PREHISTORIC ARTIFACTS FOUND IN FRAM BACKING MATERIAL, INCLUDING STONE AND  
SHELL BEADS, AND VARIOUS STONE BIFACE AND PROJECTILE POINTS,  
JICARILLA APACHE TRIBAL BOUNDARY SIGN WITH ROUTED BLACK LETTERS ON WHITE  
WOODEN BACKGROUND: "JICARILLA APACHE BOUNDARY LINE,"  
GREEN RING BINDER NOTEBOOK, CONTAINING A CATALOG: "HOW TO FIND AND COLLECT  
INDIAN ARTIFACTS IN MODERN TIMES,"  
PURPLE FOLDER CONTAINING YCC SENSITIVE INFORMATION,  
REDDISH BROWN HISTORIC PIPE BOWL,  
WILDLAND FIRE LEATHER GLOVES,  
YCC CAPS,  
PREHISTORIC GROUNDSTONE HAND TOOLS,  
WILDLAND FIRE RAKE/HOE (MCLEOD BRAND),  
"LADY SHOVEL" FIRE TOOL,  
COMBINATION (PICK/SHOVEL/HOE) FIRE TOOL,  
"T"-SHAPED PROBE TOOL,  
JICARILLA APACHE TRIBAL BOUNDARY SIGN WITH ROUTED RED LETTERS ON WHITE  
WOODEN BACKGROUND: "JICARILLA APACHE BOUNDARY,"  
PREHISTORIC AND HISTORIC ARTIFACTS (FOUND IN YELLOW TRAY),  
COMBINATION (PICK/SHOVEL/HOE) FIRE TOOL,  
BEAD AND OBSIDIAN PROJECTILE POINT,  
PREHISTORIC SHERDS AND PORTIONS OF PREHISTORIC POTS,  
STONE TOOLS, INCLUDING MANOS, HAMMERSTONES, AND CHOPPER,

“LADY SHOVEL” FIRE TOOLS,  
SHELLS BEADS,  
FRAMED ASSORTMENT OF CHIPPED STONE ARTIFACTS, INCLUDING PROJECTILE POINT  
FROM FEDERAL LANDS,  
MINIATURE BROWNWARE JAR,  
MOGOLLON BROWNWARE BOWL,  
TULAROSA BLACK AND WHITE DUCK EFFIGY POT,  
TULAROSA BLACK AND WHITE PITCHER,  
CIBOLA WHITEWARE BLACK AND WHITE PITCHER,  
TULAROSA BLACK AND WHITE JAR EFFIGY HANDLE,  
JEDITTO BLACK-ON-YELLOW BOWL,  
ST. JOHNS POLYCHROME LARGE BOWL,  
RESERVE PLAIN CORRUGATED BOWL,  
RESERVE SMUDGED DECORATED BOWL,  
SMALL SAN FRANCISCO RED JAR - DOG,  
SMALL SAN FRANCISCO RED JAR,  
RESERVE INDENTED CORRUGATED JAR,  
BLACK-ON-WHITE LADLE,  
RESERVE INDENTED CORRUGATED JAR,  
RESERVE/TULAROSA BLACK AND WHITE PITCHER,  
ESCAVADA BLACK-ON-WHITE PITCHER,  
PUERCO BLACK-ON-WHITE BOWL,  
TULAROSA FILLET RIM BROWNWARE BOWL,  
TULAROSA BLACK-ON-WHITE PITCHER,  
GROUNDSTONE PREHISTORIC ARTIFACTS,

BROWNWARE SHERDS FOUND AT ASPEN CANYON ARCHAEOLOGICAL SITE INCLUDING:  
CORRUGATED BROWNWARE SHERDS,  
BLACK-ON-RED SHERDS,  
BLACK-ON-WHITE OR WHITEWARE SHERDS,  
REDWARE SHERDS,  
TULAROSA FILLET RIM SHERDS,  
LITHIC DEBITAGE,

*Defendants,*

*and*

BARRY BEASLEY AND  
BRIAN PALMER,

*Claimants.*

**VERIFIED COMPLAINT FOR FORFEITURE *IN REM***

Plaintiff states:

### **JURISDICTION AND VENUE**

1. This is a civil action *in rem* for forfeiture of Defendant which has been located and will be arrested by execution of a Warrant for Arrest in the District of New Mexico; and during the pendency of this action Defendant, or its equivalent or proceeds thereof, will be subject to the jurisdiction of this Court.

2. The United States District Court for the District of New Mexico has exclusive, original jurisdiction under 28 U.S.C. §§ 1345, 1355 and 1356.

3. Venue is proper under 28 U.S.C. §§ 1355 and 1395.

4. The “res” or Defendant Property which are the subject of this action is listed in the above caption (hereafter referred to as “Defendant Property”).

### **PARTIES AND CLAIMANTS**

5. The following persons may claim an interest in the Defendant Property:

- (a). Barry Beasley at P.O. Box 276, Chama, NM 87520;
- (b). Brian Palmer at P.O. Box 42, Taos, NM 87525.

### **STATEMENT OF FACTS**

6. On or about April 20, 2008, suspicious activity on an archaeological site of the Gila National Forest Lands was reported to the Catron County Sheriff’s Department. Deputies of the Catron County Sheriff’s Department found areas of the archaeological site had been damaged by unauthorized excavation. James L. Hamm, Brian Beasley and Brian Palmer were identified at the site. Deputies requested and received written consent to search Hamm’s vehicle. Deputies found shovels, digging implements, maps, metal probe and a beer can containing 33 pieces of

pottery sherds in Hamm's vehicle. Deputies seized the six items listed in the caption above as Defendant Property under "Brownware Sherds found at Aspen Canyon Archaeological Site."

7. On May 18, 2008, U.S. Forest Service Agents executed a search warrant at the Hamm and Beasley residence, wherein they found numerous National Forest maps, Native American pots, digging implements, and a typed journal describing the digging and taking of archaeological resources from both public and private lands. Hamm's journal described in detail the date when the artifacts were found, who was present, a description of the site, the dimensions of the pots found, and the code name for the site. Handwritten letters from an Aron Pettijohn describing digging and selling artifacts to dealers in Arizona were found. A stolen rifle was found. The Defendant Property listed in the caption above under "Prehistoric Pottery Sherds Found at the Hamm Residence" were seized from Hamm's residence.

8. U.S. Forest Service Agents interviewed Hamm, who admitted that he and Palmer scratched about 10 - 15 different places at the archeological site using hoes and shovels looking for arrowheads. Hamm stated they found about 20 pottery sherds and gave all the shards to Beasley because he wanted them to make a display.

9. U.S. Forest Service Agents interviewed Beasley. Beasley admitted to going artifact hunting with Hamm and Palmer on several occasions usually in the spring of each year.

10. U.S. Forest Service Agents interviewed Palmer. Palmer's interview was consistent with what Beasley offered during his interview.

11. As part of Hamm's plea agreement and sentence entered in *United States v. Hamm*, USDC D.N.M. No. 10-CR-436 JEC, Hamm forfeited all of his right, title and interest to the Defendant Property.

**CLAIMS FOR RELIEF**

12. Defendant Property is subject to arrest and forfeiture to Plaintiff under 16 U.S.C. § 470gg(b) all archaeological resources in violation of 16 U.S.C. § 470ee(a) occurred and are in the possession of any person, and all vehicles and equipment of any person which were used in connection in violation of 16 U.S.C. § 470ee(a).

**WHEREFORE**, Plaintiff seeks arrest of Defendant Property and forfeiture of same to Plaintiff, determination of the validity and priority of claims of the Claimants and any Unknown Claimants to the Defendant Property, costs and expenses of seizure and of this proceeding, and other proper relief.

Respectfully submitted,

KENNETH J. GONZALES  
UNITED STATES ATTORNEY



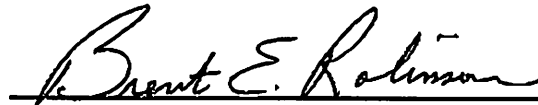
STEPHEN R. KOTZ  
CYNTHIA L. WEISMAN  
Assistant U.S. Attorneys  
P. O. Box 607  
Albuquerque, New Mexico 87103  
(505) 346-7274

**28 U.S.C. § 1746 DECLARATION**

I am a Special Agent with the United States Forest Service who has read the contents of the Complaint for Forfeiture In Rem to which this Declaration is attached; and the statements contained in the complaint are true to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that this Declaration is true and correct, except as to matters stated on information and belief, and as to those matters I believe them to be true.

DATED: January 12, 2011

A handwritten signature in cursive script, reading "Brent E. Robinson", is written over a solid horizontal line.

Brent E. Robinson, Special Agent  
United States Forest Service